

Development of Delta Plan Alternatives for EIR Analyses

March 24, 2011

Purpose of Alternatives

- CEQA requires that public agencies evaluate whether policy/project objectives feasibly can be accomplished in ways that minimize harm to the environment
- Therefore, when an agency formulates proposed policies, it must evaluate whether those policies still can be achieved via *alternatives* that are better for the environment

Starting Point for Alternatives

- Fundamentally, an EIR evaluates alternatives to the “Project” being proposed
- For us, the “Project” is the proposed Delta Plan
 - Specifically, the Draft Delta Plan

Alternatives in the Delta Plan EIR in Accordance with CEQA Guidelines (CEQA Guidelines Section 15126.6(a)-(c))

- An EIR shall describe a range of reasonable alternatives to the proposed project
- Which would feasibly attain most of the basic objectives of the project
- But would avoid or substantially lessen any of the significant effects of the project
- An EIR is not required to consider alternatives that are infeasible

Alternatives in the Delta Plan EIR

- Range/variation of alternatives must permit informed agency decisionmaking and informed public participation. *Laurel Heights Improvement Ass'n v. UC Regents* (1988) 47 Cal.3rd 376, 404
- Range of project alternatives in the EIR judged against "a rule of reason." *Laurel Heights* at 407

Alternatives in the Delta Plan EIR

- EIRs not required to study alternatives that "cannot achieve the project's underlying fundamental purpose." *In re Bay-Delta Programmatic EIR* (2008) 43 Cal.4th 1143, 1157
- EIRs not required to study alternatives to all separate components of a project; focus should be on broader alternatives. *See, e.g., California Native Plant Society v. Santa Cruz* (2009) 177 Cal.App 4th 957, 993

One of the Alternatives in the EIR shall be the No Project Alternative

(CEQA Guidelines section 15126.6(e))

- No Project Alternative compares the impacts of approving the proposed project with the impacts of not approving the proposed project
- The No Project Alternative analysis discusses:
 - Existing Conditions at the time the Notice of Preparation is published, as well as
 - What would reasonably be expected to occur in the foreseeable future without the proposed project

Other Potential Alternatives to be Considered in the EIR

- Proposed Project: Draft Delta Plan
- Possible Alternatives (in addition to No Project) will be thematic in nature, such as:
 - Additional Emphasis on Water Supply Reliability
 - Additional Emphasis on Ecosystem Restoration
 - Additional Emphasis on In-Delta Land Uses

Next Steps

- Based on Council input on Second Staff Draft Delta Plan, staff will further develop thematic alternatives
- Will provide update during April 14-15 workshop